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I. Introduction

The following Departmental Directive sets forth the policy, process and procedures used in the determination of eligibility for services and supports through the South Carolina Department of Disabilities and Special Needs (DDSN).

Criteria designated within South Carolina Code of Laws indicate seven (7) different categories of eligibility under the authority of DDSN: Mental Retardation; a Related Disability to Mental Retardation; High Risk Infant; Autism; Head Injury (i.e., traumatic brain injury); Spinal Cord Injury; and Similar Disability. Some individuals may meet DDSN eligibility criteria under more than one (1) category. In such situations, DDSN will consider which DDSN division offers the most appropriate resources and service models to address the needs of the particular person and his/her family. Individuals with primarily medical conditions such as Diabetes, Hypertension, Stroke, Multiple Sclerosis, Parkinson's Disease, Cancer, etc., do not meet DDSN eligibility criteria under any category unless other qualifying conditions are met.

II. Criteria for Mental Retardation

A. Definition

S.C. Code Ann. §44-20-30 defines “Mental Retardation” as significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

B. Diagnostic Criteria

DDSN evaluates referred individuals in accordance with the definition of Mental Retardation outlined in the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders-Fourth Edition, Text Revision (DSM-IV-TR, 2000).

Mental retardation refers to substantial limitations in present functioning. Diagnosis of mental retardation based on the DSM-IV-TR definition requires the following three (3) criteria be met:

1. Significantly sub-average intellectual functioning; an IQ of approximately 70 or below on an individually administered intelligence test (for infants, a clinical judgment of significantly sub-average intellectual functioning);
2. Concurrent deficits in present overall adaptive functioning (i.e. the person’s effectiveness in meeting the standards expected for his/her age by his/her cultural group) with deficits in at least two (2) of the following adaptive skills areas: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, and safety;
3. The onset of mental retardation is before age 18 years.

There must be concurrent deficits in intellectual and adaptive functioning that fall approximately two (2) or more standard deviations below the mean on standardized measures (approximately 70 or below) in order to meet criteria for diagnosis of mental retardation. However, a score of 70 on any intelligence and/or adaptive test does not equate to a diagnosis of mental retardation.

DDSN relies on qualified providers to administer psychological testing to applicants. **This includes testing conducted by school psychologists and other professionals who regularly administer psychological tests to persons with disabilities.** The tests are then analyzed by the DDSN Consumer Assessment Team to determine if they are reliable and valid, and to determine whether they are consistent and congruent with other psychological tests, school records including academic achievement scores, placement in special education & IEP data, medical reports, psychiatric and mental health records, family history, and

other pertinent information. In order to ensure the reliability and validity of the tests administered to applicants, only standardized measures are used to determine if criteria for mental retardation are met. Therefore, DDSN maintains a list of all approved psychometric tests that must be used for eligibility purposes.

III. Criteria for Related Disability

A. Definition and Diagnostic Criteria

S.C. Code Ann. §44-20-30 and 42 CFR 435.1009 defines eligibility for DDSN services under “**Related Disability**” as follows:

A severe, chronic condition found to be closely related to mental retardation or to require treatment similar to that required for persons with mental retardation and must meet all **four** (4) of the following conditions:

1. It is attributable to cerebral palsy, epilepsy, or any other condition other than mental illness found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation and requires treatment or services similar to those required for these persons;
2. the related disability is likely to continue indefinitely;
3. it results in substantial functional limitations in three (3) or more of the following areas of major life activity: self-care, understanding and use of language, learning, mobility, self-direction, and capacity for independent living; AND
4. The onset is before age 22 years.

DDSN relies on qualified providers to administer psychological testing to applicants. **This includes testing conducted by school psychologists and other professionals who regularly administer psychological tests to persons with disabilities.** The tests are then analyzed by the DDSN Consumer Assessment Team to determine if they are reliable and valid, and to determine whether they are consistent and congruent with other psychological tests, school records including academic achievement scores, placement in special education & IEP data, medical reports, psychiatric and mental health records, family history, and other pertinent information. In order to ensure the reliability and validity of the decisions made, DDSN uses standardized measures to determine if criteria for a related disability are met. Specifically, a standardized test of functional abilities that yield a composite score of two (2) standard deviations or more (i.e., Composite < 70) must be met to qualify for eligibility under the Related

Disability category. DDSN maintains a list of all approved psychometric tests that will be used to determine if criteria for a related condition are met.

IV. Criteria for High-Risk Infant

A. Definition

S.C. Code Ann. §44-20-30 defines “**high-risk infant**” as a child less than 36 months of age whose genetic, medical or environmental history is predictive of a substantially greater risk for a developmental disability than that for the general population.

B. Diagnostic Criteria

Children younger than 36 months of age are served under this category when they exhibit significant documented delays in three (3) or more areas of development or have an approved diagnosis confirmed by a medical professional and exhibit significant documented delays in two (2) areas of development.

This category of eligibility allows DDSN to provide services to infants and young children under 36 months in instances where the future diagnosis is not absolutely clear due to situations (genetic, environmental or medical) present at birth or manifesting themselves thereafter, including accident and injury. In such instances, eligibility may be established in a time-limited fashion until a more comprehensive and conclusive assessment can be made regarding the presence or absence of a qualifying disability (not to exceed 36 months of age). Infants and young children under 36 months are eligible to receive all DDSN services for which they qualify based on need and resource availability. Once the child turns 36 months of age, he/she must qualify for DDSN eligibility in another category, such as mental retardation, a related disability, autism, traumatic brain injury or spinal cord injury **to continue to receive services from DDSN. The one exception is** for those children ages three (3) to six (6) years of age eligible in the at-risk category. These children may continue to receive early intervention services (**i.e., family training and service coordination provided by an Early Interventionist**) until further notified by the State Director. **Any child 36 months of age or older whose eligibility is not updated by DDSN’s Consumer Assessment Team by their 37 month of age must have their file closed. The child is no longer eligible to receive any service from DDSN.**

V. Criteria for Autism

A. Definition

DDSN uses the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders-Fourth Edition, Text Revision (DSM-IV-

TR, 2000) definition of “Autistic Disorder” (i.e. Autism) which states Autistic Disorder is “an abnormal or impaired development in social interaction and communication and a markedly restricted repertoire of activity and interest. The disturbance must be manifested prior to the age of three (3) years.”

B. Diagnostic Criteria

DDSN evaluates referred individuals in accordance with the definition of Autistic Disorder outlined in the Diagnostic and Statistical Manual of Mental Disorders-Fourth Edition, Text Revision (DSM-IV-TR, 2000). Criteria for diagnosis of autism requires the presence of at least six (6) (or more) items from (1), (2), and (3), with at least two from (1), and one each from (2) and (3):

- 1) **Qualitative impairment in social interaction, as manifested by at least two of the following:**
 - a) marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction;
 - b) failure to develop peer relationships appropriate to developmental level;
 - c) a lack of spontaneous seeking to share enjoyment, interests, or achievements with other people (e.g., by a lack of showing, bringing, or pointing out objects of interest);
 - d) lack of social or emotional reciprocity.
- 2) **Qualitative impairments in communication as manifested by at least one of the following:**
 - a) delay in, or total lack of, the development of spoken language (not accompanied by an attempt to compensate through alternative modes of communication such as gesture or mime);
 - b) in individuals with adequate speech, marked impairment in the ability to initiate or sustain a conversation with others;
 - c) stereotyped and repetitive use of language or idiosyncratic language;
 - d) lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental level.
- 3) **Restricted repetitive and stereotyped patterns of behavior, interests, and activities, as manifested by at least one of the following:**
 - a) encompassing preoccupation with one (1) or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;

- b) apparently inflexible adherence to specific, nonfunctional routines or rituals;
- c) stereotyped and repetitive motor mannerisms (e.g., hand or finger flapping or twisting, or complex whole body movements);
- d) persistent preoccupation with parts of objects.

VI. Procedures for Screening for Children ages Birth to 3 years old

A. Screening Process

- 1. Not yet in BabyNet Program
 - a) If the child is age's-under birth to 2 years 11 months old, a referral to the BabyNet Program, administered by First Steps, must occur first.
 - b) If the child is at or over 2 years 11 months of age, screening must occur prior to intake. See Section VII.

- 2. In BabyNet Program

If the child is already receiving services from an Early Interventionist via the BabyNet Program, and the child is in the Consumer Data Support System (CDSS) as BabyNet only or as High-Risk, the Early Interventionist can skip the screening process and begin the intake process as outlined under VII. (B) 3. **Please note that any child who reaches 37 months of age without an eligibility determination by the DDSN Consumer Assessment Team will no longer be eligible for any service and their file must be closed.**

VII. Procedures for Screening for MR, RD, Autism and for Persons at or over 2 years 11 Months of Age

A. Screening Process

- 1. Effective ~~on or before~~ July 1, 2010, ~~DDSN will transfer all screening functions to the USC School of Medicine – Center for Disability Resources~~ **will conduct screening for any person suspected of having mental retardation, a related disability, Autism or for a child considered At-Risk (children three (3) to six (6) years old) from the DSN Boards. Until then, DSN Boards will continue to carry out the screening function.** The toll-free number is 1-800-289-7012.
- 2. Residency – Applicants must be legal South Carolina residents and legal U.S. citizens to be considered for DDSN eligibility.

3. If determined during screening that the individual is not likely to be eligible for services (i.e., they are screened out), the person/legal guardian ~~must be~~ will be informed of other community resources or providers from whom assistance may be sought. The person/legal guardian may appeal the screening results. If screened in, the screener will provide the applicant with a list of all available Service Coordination or **Early Intervention (if under six (6) years old) providers** in which to take the applicant through intake and eligibility. Additional information, including the DDSN website **address**, will be mailed to each applicant.

B. Intake Process

1. When screened in, all available information ~~by USC-CDR~~ ~~must~~ will be forwarded to the applicant's chosen Service Coordinator/Early Intervention provider within ~~five (5) working days~~ 24 hours or the next business day **following screening**.
2. Appropriate information must be entered into CDSS by the chosen Service Coordinator/**Early Intervention** provider within seven (7) working days of receiving the referral.
3. The Service Coordinator/**Early Interventionist** will begin the process for establishing eligibility through the intake process. The following steps ~~should~~ **will** be completed during the intake process:
 - ◆ No individual believed to have mental retardation, autism, a related disability or a child believed to be a high-risk infant may be admitted to the services of DDSN until an assessment of the applicant has been completed, approved, and certified by the Department as delineated in S.C. Code Ann. §44-20-390. An assessment of an applicant must be completed and approved by the DDSN **Consumer Assessment Team** to determine if an applicant has mental retardation, autism or a related disability, or a child believed to be a high-risk infant, **or approved in the at-risk category** and to be in need of services, before he/she may become eligible **and receive any service, including family training**.
 - ◆ It is expected that DDSN eligibility decisions will be made within three (3) months of the case open date. This means the Service Coordinator/**Early Interventionist** must send the DDSN Consumer Assessment Team a complete packet no later than two and a half (2.5) months of the case open date.
 - ◆ If an eligibility decision has not been made within three (3) months of the case open date, the Service Coordinator/**Early Interventionist** or Service Coordinator Assistant will discuss with the

applicant/legal guardian the reasons for delay in eligibility and document the discussion in the service notes. **It is assumed that the reason for the delay is not due to a lack of effort by the Service Coordinator/Early Interventionist.** The applicant will be placed on Level II Service Coordination status or **if an Early Interventionist is involved, no reporting of case management to DDSN may occur;** and the Service Coordinator/Early Interventionist will inform the Service Coordinator/**Early Intervention** Supervisor the reasons for the delay. The Service Coordinator/**Early Interventionist** will continue to work with the applicant/legal guardian to complete the eligibility packet for up to an additional three (3) months, unless otherwise indicated by the applicant/legal guardian. If eligibility is delayed due to the Service Coordinator/**Early Interventionist** or Service Coordinator Assistant being unable to locate or contact the applicant/legal guardian, the Service Coordinator/**Early Interventionist** or Service Coordinator Assistant will meet with the Service Coordinator/**Early Intervention** Supervisor to discuss the case and determine if intake should be extended or the case closed.

NOTE: No reporting to DDSN can occur for Intake beyond three (3) months, **this includes reporting by an Early Interventionist.**

- ◆ If eligibility is not determined within six (6) months of the case open date, the Service Coordinator/**Early Interventionist** or Service Coordinator Assistant will discuss the reason for delay with the applicant/legal guardian, choices of further extension or case closure, and the option of re-applying if services are needed in the future. Any discussions and contacts with the applicant/legal guardian during the intake process, along with justification for any extensions, must be documented in service notes. If an extension is chosen, the Service Coordinator/**Early Interventionist** will notify the Service Coordinator/**Early Intervention** Supervisor and Executive Director.

NOTE: No reporting to DDSN can occur for Intake beyond three (3) months.

VIII. Criteria for Head and Spinal Cord Injury and Similar Disability

A. Definition

Under **S.C. Code Ann. §44-38-370**, which establishes DDSN **legislative authority for the Head and Spinal Cord Injury (HASCI) Division**, a person is eligible for **case management services** under this article when at the time of determining eligibility the person has a severe chronic limitation that:

1. is attributed to a physical impairment, including head injury, spinal cord injury or both, or a similar disability, regardless of the age of onset but not associated with the process of a progressive degenerative illness or disease, dementia, or a neurological disorder related to aging;
2. is likely to continue indefinitely without intervention;
3. results in substantial functional limitation in at least two (2) of these life activities:
 - a) self-care;
 - b) receptive and expressive communication;
 - c) learning;
 - d) mobility;
 - e) self-direction;
 - f) capacity for independent living;
 - g) economic self-sufficiency; and
4. reflects the person's need for a combination and sequence of special interdisciplinary or generic care or treatment or other services, which are of lifelong or extended duration and are individually planned and coordinated.

B. Diagnostic Criteria

S.C. Code Ann. §44-38-20, which relates to the South Carolina Head and Spinal Cord Information System, **defines head injury and spinal cord injury**:

“Head injury” means an insult to the skull or brain, not of a degenerative or congenital nature, but one caused by an external physical force that may produce a diminished or altered state of consciousness, which results in impairment of cognitive abilities or physical functioning and possibly in behavioral or emotional functioning. It does not include cerebral vascular accidents or aneurysms.

“Spinal cord injury” means an acute traumatic lesion of neural elements in the spinal canal resulting in any degree of sensory deficit, motor deficit, or major life functions. The deficit or dysfunction may be temporary or permanent.

“Similar disability” is not specifically defined within the South Carolina State Code of Laws; however, S.C. Code Ann. §44-38-370 states that similar disability is “not associated with the process of a progressive degenerative illness or dementia, or a neurological disorder related to aging.”

There must be medical documentation and functional/adaptive assessments to substantiate that traumatic brain injury, spinal cord injury or similar disability

occurred and produced ongoing substantial functional limitations. There must be documentation of pre-existing/concurrent conditions, which impact functioning.

C. Procedures for Intake

If an individual or a family member has severe impairment(s) as a result of traumatic brain injury, spinal cord injury, or both, or a similar disability:

1. All birth to 6 year olds will go through screening and intake under the MR-RD Division to be considered for the RD category or for the HRI or ARC category in order to receive EI services.
2. If the individual is 7 years or older, Contact HASCI Division Information and Referral (I & R) toll free at 1-866-867-3864 to be screened for referral to the HASCI Division.

It may be determined during screening that a person 7 years or older who sustained brain injury during infancy or childhood, or who has CP, Spina Bifida, or other congenital condition is more appropriate to go through screening and intake under the MR-RD Division to be considered for the RD category.

3. If the individual is determined appropriate for formal consideration of HASCI Division eligibility, he/she will be referred to the approved provider of HASCI Service Coordination chosen by the applicant.
4. The applicant will be contacted by the chosen SC provider to begin formal intake and eligibility determination procedures.
- ~~1. Contact HASCI Division Information and Referral (I & R) toll free at 1-866-867-3864 to be screened for referral to the DDSN HASCI Division.~~
- ~~2. If the individual is determined appropriate for formal consideration of eligibility, he/she will be referred by HASCI Division I & R to the approved SC provider chosen by the applicant.~~
- ~~3. The applicant will be contacted by the chosen SC provider to begin formal intake and eligibility determination procedures.~~

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IX. APPEAL PROCEDURES FOR APPLICANTS SEEKING ELIGIBILITY FOR DDSN SERVICES

Because of the clinical nature of decisions made regarding eligibility for DDSN services, separate appeal procedures have been established for applicants.

Written notice of an eligibility decision will be provided to the applicant by the Service Coordinator/Early Intervention provider within five (5) working days of the provider's

receipt of an eligibility decision. This notice will outline the basic reasons why the applicant did not meet eligibility criteria and will include information on the applicant's right to appeal an eligibility denial and the procedures for appeal. Upon request of the applicant, the Service Coordinator/Early Intervention provider must read or explain the eligibility decision and appeal procedures to the applicant if eligibility is denied.

When an appeal is desired by the applicant, a signed and dated formal written appeal of an eligibility denial must be made within 30 calendar days of the eligibility decision. The appeal must be made by the applicant, his/her guardian, or any other person/entity advocating on behalf of the applicant, with the applicant's approval and must state the reason for believing that the denial of eligibility was in error. This written appeal must be given to the Service Coordinator/Early Intervention provider. If an oral request for appeal is made by the applicant to the Service Coordinator/Early Intervention provider and the applicant requires assistance, the Service Coordinator/Early Intervention provider must assist the applicant in writing the appeal.

The applicant's record on CDSS will remain open until the time to request an appeal is over or until all appeals are completed.

The formal written appeal of a determination of ineligibility will be forwarded by the Service Coordinator/Early Intervention provider to the Director of the DDSN Consumer Assessment Team within five (5) workdays of receipt from the applicant. All pertinent documents upon which the eligibility denial was based will be reviewed. If new or additional information is provided which was not part of the original eligibility determination documents, the appeal will be considered a re-evaluation. Should new testing or assessment be indicated such testing or assessment will be conducted by persons not conducting the previous testing or assessment. A subsequent eligibility decision will be rendered by the DDSN Consumer Assessment Team within 30 days of receipt of the appeal or receipt of new testing/assessment results, whichever is later, and communicated to the applicant via the Service Coordinator/Early Intervention provider.

If no new or additional information is provided, or in the case of re-evaluation, a subsequent determination of ineligibility is challenged, the appeal will be forwarded to the Associate State Director for Policy, who will review the decision with input from the DDSN Consumer Assessment Team and appropriate Division Directors. The Associate State Director for Policy will review the case with the State Director, who has final authority over applicant eligibility in accordance with S.C. Code Ann. §44-20-430 (Supp. 2006). A written decision will be rendered within 30 days of receipt of appeal by the DDSN Consumer Assessment Team and communicated to the applicant in writing.

State law requires that applicants be residents of South Carolina [S.C. Code Ann. §44-20-390 (D) (Supp. 2006)]. During the review for eligibility determination by the DDSN Consumer Assessment Team, the applicant's residency will also be reviewed for compliance with state law. An adverse decision concerning residency will result in a denial of eligibility. This adverse residency decision may be re-evaluated by the DDSN Consumer Assessment Team according to the previously stated appeal procedures and

additional information may be submitted. If no new or additional information is provided, the appeal of the residency status will be forwarded to the Associate State Director for Policy in accordance with the previously stated provisions.

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